

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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East Phillips Neighborhood and Edward  
Henderson,

Case No. 20-CV-1648 (ECT/KMM)

Plaintiffs,

**REPORT AND RECOMMENDATION**

v.

City of Minneapolis,

Defendant.

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In an order dated August 25, 2020, this Court explained that plaintiff Edward Henderson could not represent co-plaintiff East Phillips Neighborhood in this action. *See* ECF No. 3. Because the claims raised in the complaint related to the neighborhood and not Mr. Henderson himself, an amended complaint raising claims only related to Mr. Henderson would be needed for that plaintiff to continue prosecuting this action. *Id.* Accordingly, Mr. Henderson was given 30 days in which to file an amended complaint, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Mr. Henderson has not filed an amended complaint. In fact, Mr. Henderson has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267

Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

### RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED that this action be DISMISSED WITHOUT PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.

Date: October 20, 2020

s/ Katherine Menendez  
Katherine Menendez  
United States Magistrate Judge

### NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).